IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

RPFC.No. 171 of 2007()

AGAINST THE ORDER DATED 26/03/2007 IN CMP.37/2007 IN MC.662/2005 of THE FAMILY COURT, MALAPPURAM

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REVISION PETITIONER :

K.C.P.MATHEW, S/O.LATE C.M.PADY,
13/515A, PUTHUR,PUTHIYANGADI,
KOZHIKODE DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENTS:

MARY GEORGE, D/O.MATHAI VARGHESE,
DEVINE RETREAT CENTRE,MURINGOOR,
CHALAKUDY, THRISSUR DISTRICT.

BY ADV. SRI.P.SAMSUDIN

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON 06/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.RAMKUMAR, J.

R.P. (F.C) No. 171 of 2007

Dated: 6-8-2007

O R D E R

In this Revision filed under Section 19 (4) of the Family courts Act, the revision petitioner who is the former husband of the respondent challenges the conditional order dated 26-3-2007 passed by the Family court, Malappuram allowing the application of the revision petitioner to set aside the ex parte order in M.C. 662 of 2005 whereby the initial monthly maintenance of Rs. 500/- awarded to the respondent herein was enhanced to Rs. 5,000/- per month with effect from 23-11-2005. The main grievance of the revision petitioner is that the court below has directed him to deposit the entire arrears of maintenance till date of order on or before 10-4-2007 with a further condition to continue to pay maintenance at the enhanced rate as a condition for setting aside the ex parte order.

2. After hearing both sides, I am of the view that the aforesaid condition imposed by the court below is undoubtedly an onerous condition. In the first place, the initial maintenance of Rs. 500/- per month was enhanced to 10 times of the said amount. That order was passed ex parte against the revision petitioner who claims to have been appearing without any default except on the date on which

the said order was passed. I am, therefore, inclined to interfere with the condition imposed by the court below. If the revision petitioner deposits before the Family Court, Malappuram, a sum of Rs. 40,000/- (Rupees forty thousand only) within one month from today the order dated 1-11-2006 in M.C. 662 of 2005 will stand set aside and the revision petitioner shall be entitled to an opportunity to contest the said M.C. on merits. If, on the other hand, the above amount is not deposited within the stipulated time, the order dated 1-11-2006 in M.C. 662 of 2005 will stand confirmed.

This Revision is allowed accordingly. It shall be open to the Family Court to pass appropriate orders with regard to the disbursement of the amount as and when it is deposited.

V. Ramkumar, Judge.

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